

ADMINISTRATIVE PANEL DECISION

Fenix International Limited v. dilshan omantha
Case No. D2023-2242

1. The Parties

The Complainant is Fenix International Limited, c/o Walters Law Group, United States of America (“United States”).

The Respondent is dilshan omantha, Sri Lanka.

2. The Domain Name and Registrar

The disputed domain name <onlyfansleaks.vip> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY, c/o Privacy services provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 26, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 1, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on July 20, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant owns and operates the website located at the domain name <onlyfans.com> and has used its domain name for several years in connection with the provision of a social media platform that allows users to post and subscribe to audiovisual content on the world wide web.

The Complainant has made extensive use of the ONLYFANS trademark and has registered rights in the trademarks with the European Union Intellectual Property Office (“EUIPO”), the United Kingdom Intellectual Property Office (“UKIPO”), and the United States Patent and Trademark Office (“USPTO”).

The Complainant is the owner of, among others, registrations in multiple classes for the ONLYFANS word mark in the European Union (No. 017912377 registered on January 9, 2019) and word and design marks in United Kingdom (No. UK00917912377 and No. UK00917946559, respectively, both registered on January 9, 2019). In the United States, the Complainant has registrations for the ONLYFANS (No. 5769267 registered on June 4, 2019), ONLYFANS.COM (No. 5769268 registered on June 4, 2019) word marks in various classes.

The disputed domain name was registered on November 23, 2022 and resolves to an online website that offers adult entertainment services (including content pirated from the Complainant’s users) in direct competition with the Complainant’s services, including “providing entertainment services featuring non-downloadable video, photographs, images, audio, and in the field of adult entertainment”.

5. Parties’ Contentions

A. Complainant

The Complainant is the owner of one of the most popular websites in the world in 2023 with more than 180 million registered users. According to similarweb, it is the 94th most popular website on the world wide web, and it is the 53th most popular website in the United States.

Because the Complainant’s website is one of the most visited websites in the world, it has become a prime target for cybersquatters wishing to profit from the goodwill that the Complainant has garnered in its marks. The Respondent is one such cybersquatters.

The Complainant registered the domain name <onlyfans.com> on January 29, 2013, and has extensive common law rights in the trademarks throughout the world that commenced by, at latest, July 4, 2016, well before the Respondent registered the disputed domain name on November 23, 2022.

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark ONLYFANS.

The Complainant contends that the disputed domain name consists of the Complainant’s exact trademark with the only difference being the insertion of the descriptive term “leaks” after the Complainant’s trademark, which does nothing to avoid confusing similarity.

The Complainant also contends that that the Top-Level Domain (“TLD”) in the disputed domain name should be disregarded for the confusing similarity test.

The Complainant contends that the Respondent has no rights and legitimate interests in the disputed domain name for the following reasons: (i) the Respondent is not commonly known by the disputed domain name; (ii) the Respondent is not affiliated nor authorized by the Complainant in any way; specifically no license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name; (iii) the website at the disputed domain name offers adult entertainment services in direct competition with the Complainant.

The Complainant further contends that the disputed domain name was registered and is used in bad faith, for the following reasons: (i) the Respondent registered the disputed domain name many years after the Complainant has established a strong reputation and goodwill in its trademarks; (ii) the Respondent knew of the Complainant's brand and business and yet registered the disputed domain name that is confusingly similar to the Complainant's trademarks.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the facts presented by the Complainant, this Panel finds that the Complainant has established its rights in ONLYFANS trademark through registration and use. The Panel finds that the disputed domain name is confusingly similar to ONLYFANS trademark, as the disputed domain name includes the Complainant's mark in full and that the TLD in the disputed domain name should be disregarded for the confusing similarity test.

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant's trademarks.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The disputed domain name is confusingly similar to the Complainant's trademarks ONLYFANS and the disputed domain name reproduces in its entirety the Complainant's trademark.

Moreover, the Respondent was aware of the Complainant's trademark ONLYFANS at the time the Respondent registered the disputed domain name since the disputed domain name resolves to an online website that offers adult entertainment services (including, according to the Complainant, content pirated from the Complainant's users) in direct competition with the Complainant's services.

The disputed domain name has been registered many years after the Complainant has established a strong reputation and goodwill in its trademarks. The Respondent in no doubt knew of the Complainant's trademarks at the time of registration of the disputed domain name, and deliberately sought to use their goodwill to attract Internet users.

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(a)(iii).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <onlyfansleaks.vip>, be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: August 3, 2023